

*FS* *I*  
*Cent*  
*44*  
anchoring the cover with at least one tie-down cable, the tie-down cable  
passing through at least one fastener.

*45*  
*28*  
48. The method of claim <sup>28</sup> wherein the step of linking further comprises the step of:  
orienting the panels in a partially overlapping relationship.

*45*  
*28*  
47. The method of claim <sup>28</sup> further comprising the step of:  
supporting the cover above aqueous solutions.

*46*  
*26*  
48. The method of claim <sup>28</sup> wherein the step of linking further comprises the step of:  
linking the panels together to cover a waste treatment pond.

#### REMARKS

This amendment is a revision/replacement of the Amendment filed on April 22, 1999, which was a revision/replacement of the Amendment filed on December 18, 1998 and is responsive to the Office Communication mailed July 14, 1999. This is further responsive to the outstanding Office Action issued September 18, 1998 in which claims 1-12, 14-16, and 18-48 were pending, claims 1, 2 and 4 were allowed and claims 3, 5-12, 14-16 and 18-48 were rejected. With this Office Action claims 3, 5, 17, 18, 28, and 37-41 have been amended. The patent sought to be reissued is believed to be in a condition for allowance. Applicant respectfully requests notice to that effect.

In the Office Communication mailed July 14, 1999, the Examiner re-asserted that the Amendment filed on December 18, 1998 proposes changes to the specification,

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*E*

claims and drawings that did not comply with 37 CFR 1.121(b). Applicant has carefully reviewed MPEP 1453 as recommended in said Office Action and believes that the present amendment comports therewith. Therefore, applicant believes the rejection under 37 CFR 1.121(b) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

The July 14, 1999 Office Action noted that claims 3 and 17 had been canceled and that a canceled claim could not be amended. Claim 3 was not canceled. Applicant believes the Office action should have noted claims 13 and 17 were canceled. This Amendment does not seek to amend any canceled claims.

The examiner further objected to the proposed drawings as including descriptive matter and not reference numerals in the Office Action mailed on January 21, 1999. Applicant requests the drawings submitted on April 22, 1999 be accepted. For ease of inserting reference numerals into the Detailed Description, applicant proposes a new first paragraph to the Detailed Description complete with reference numerals and finding antecedent basis in the Summary and Background of the Invention as originally filed. Applicant believes the objection to the drawings has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

The remaining comments are taken from the Amendment dated December 18, 1998 and are responsive to the Office Action mailed on September 18, 1998.

Paragraph 2 of the Office Action requests identification of documents from the litigation that may be material to patentability. Applicant has submitted the prior art

cited in such action with the original application for this reissue. Applicant has further submitted the description of the alleged infringer's product, namely Chamness, United States Patent 5,546,615. This is the information which the Applicant understands is being requested.

The drawings were objected to under 37 C.F.R. 1.83(a) as failing to show every feature of the claims. Specifically, the Examiner identified the "cable anchored at either of its ends to anchoring means", "the anchoring trench," "the cover supported above a pond," "aqueous solution" and "a tank" as missing from the drawings. Proposed new drawings are submitted with the present Amendment together with descriptive text for the specification. Applicant therefore believes that the objection under 37 C.F.R. 1.83(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 40, 41, and 45 were rejected under 35 U.S.C. §112 first paragraph. The Examiner noted that it appeared two distinct fasteners were being claimed, one a loop and one something else. Claim 40 has been amended to define the fastener to include the loop and something else such as a cable. In this manner, there is only one type of fastener being claimed and claim 40 should be allowable. Claims 41 and 45 depend from claim 40 and appeared to be rejected for that reason. Therefore, Applicant believes the present rejection of claims 40, 41 and 45 under 35 U.S.C. §112 has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claim 3 was rejected under 35 U.S.C. §112 second paragraph. Claim 3 was rejected due to repetition of the word "through" in a single term. To wit, in the last

Amendment the word "through" was added after the word "disposed" on line 2 such that the term read "disposed through through". The repeat of the word "through" has been removed. The Office Action further provided that it was unclear how Claim 3 further limited claim 1. In an interview on December 18, 1998 it was agreed that claim 1 has at least two interpretations on this point. Claim 1 includes the interpretation that the cable may be formed into a "u" shape with each elongation passing through only one grommet before being fastened into a loop, e.g., the cable passed through each grommet once. The other being that the grommets circumscribed the loop, e.g., the loop passed through each grommet more than once, such as is shown in Figure 1. Claim 3 further limits claim 1 to the second of these two interpretations. Applicant therefore believes the rejection of claim 3 under 35 U.S.C. §112 has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 5-7, 9-18, 23, 25, 26, 28-41 and 46 were rejected under 35 U.S.C. §102(a) as being anticipated by WO 93/11330. The Office Action stated that the adjacent panels are linked and delinked using grommets 15 and loops 17 as shown in Figure 5. Applicant has amended claims 5 and 28, the independent base claim of these rejected claims, to positively require "substantially oval-shaped loops interconnecting the adjacent panels through adjacent openings in the panels." Related language is found in claim 28. Applicant notes that a circle is a specialized oval. Cable 17 in WO/11330 is shown as an elongation, e.g., non-oval, passing through the panels. WO/11330 does not show loops such as those claimed. Accordingly, Applicant believes the rejection of claims 5-7, 9-18, 23, 25, 26, 28-41 and 46 under 35 U.S.C.

§102(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 5-7, 9, 10, 12-19, 23, 25, and 26 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,590,714 to Walker. Paragraph 22 of the Office Action notes that Applicant's arguments concerning Walker's failure to show interconnection of adjacent panels via a loop were deemed unpersuasive as the loop was not positively recited. With this Amendment, Applicant has positively recited the loop. For the reasons stated in the response dated June 9, 1998, Applicant reasserts that Claim 5 is allowable over Walker. Claims 6-7, 9, 10, 12-19, 23, 25, and 26 ultimately depend from Claim 5. Therefore applicant believes that the rejection of such claims under 35 U.S.C. §102(b) has been overcome and should be withdrawn.

Applicant respectfully requests notice to that effect.

Claims 5-7, 9, 14, 15, 18-20, 22, 25, and 26 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,197,239 to Glynn et al. Note the comments made with regard to Walker, particularly with respect to paragraph 22 of the Office Action and the positive recitation of loops in Claim 5. For the reasons stated in the response dated June 9, 1998, Applicant reasserts that Claim 5 is allowable over Glynn et al. Claims 6-7, 9, 14, 15, 18-20, 22, 25, and 26 ultimately depend from Claim 5. Therefore applicant believes that the rejection of such claims under 35 U.S.C. §102(e) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 8, 11, and 20-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,590,174 to Walker. Claim 5 is believed to be allowable

over Walker in view of the comments and claim Amendments described with regard to the rejection under 35 U.S.C. §102(b) based upon Walker. Claims 8, 11, and 20-22 ultimately depend from Claim 5 and are therefore believed to be allowable over Walker. Applicant submits that with the present Amendment the rejection of claims 8, 11, and 20-22 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 24 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,590,174 to Walker in view of U.S. Patent 3,038,171 to Bartolucci. Claim 5 is believed to be allowable over Walker and Bartolucci in view of the comments and claim Amendments described with regard to the rejection under 35 U.S.C. §102(b) based upon Walker. Like Walker, Bartolucci fails to show loops as claimed in claim 5. Claims 24 and 27 ultimately depend from Claim 5 and are therefore believed to be allowable over Walker and Bartolucci. Applicant submits that with the present Amendment the rejection of claims 24 and 27 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 28-39, 42-44, 46 and 48 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,590,174 to Walker in view of WO/11330. Claim 5 is believed to be allowable over Walker and WO/11330 in view of the comments and claim Amendments described with regard to the rejection under 35 U.S.C. §102(b) based upon Walker, and the rejection under 35 U.S.C. §102(a) based upon WO93/11330. Like Walker, WO/11330 fails to show loops as claimed in claim 28. Claims 29-39, 42-44, 46 and 48 ultimately depend from Claim 28 and are therefore

believed to be allowable over Walker and WO/11330. Applicant submits that with the present Amendment the rejection of claims 28-39, 42-44, 46 and 48 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claim 47 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of WO/11330 and Bartolucci. Walker and WO/11330 were offered to show all limitations except use to cover an aqueous solution or a tank. Bartolucci was offered to show the solution and tank. Claim 47 ultimately depends from claim 28. For the aforesaid reasons claim 28 is believed to be allowable over Walker and WO/11330. Like Walker and WO/11330, Bartolucci fails to show a loop connection. Applicant submits that with the present Amendment the rejection of claim 47 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Various changes have been made to the claims for clarity in defining the broad patent protection to which this applicant is entitled under the laws of the United States of America.

Applicant submits that all objections and rejections have been overcome and should be withdrawn and that the patent sought to be re-issued is in a condition for

allowance. Notice to that effect is respectfully requested. Any questions concerning this application may be directed to **N. Paul Friederichs at (612) 862-0517.**

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## APPENDIX A

49. A pond cover, comprising:

A) a plurality of panel units connected together in a vertical spaced relationship

at their ends;

B) a plurality of grommets disposed at the connected ends;

C) a cable disposed through the grommets and formed into a loop projecting  
above the panel units; and

D) a cable disposed through the row of loops.

END

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